

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:19-00037

D'ALFONZA V. MIKELL

**MEMORANDUM OPINION AND ORDER**

Pending before the court is defendant's motion to continue the trial and all related deadlines for a period of approximately forty-five days. (ECF No. 28). In support of defendant's motion and the need for a continuance, counsel for Mikell states that he needs additional time to review discovery in this matter given that it was only recently received. Furthermore, counsel for defendant anticipates that forensic testing will be necessary and needs additional time to obtain such testing. The court contacted counsel for the government who advised that the government does not oppose defendant's request for a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** the defendant's motion to continue. In deciding to grant the motion to continue, the court considered the factors outlined in 18 U.S.C. §3161(h)(7)(B) and found that failure to grant a continuance would deny counsel the reasonable time

necessary for effective preparation, taking into account the exercise of due diligence.

Accordingly, the court hereby **ORDERS** as follows:

1. Trial of this action is continued until May 29, 2019, at 9:30 a.m., in Charleston. Jury instructions and proposed voir dire are to be filed by May 22, 2019;
2. All pretrial motions are to be filed by April 29, 2019
3. A pretrial motions hearing is scheduled for May 6, 2019, at 11:30 a.m., in Charleston;
4. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 20th day of March, 2019.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber  
Senior United States District Judge